

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

OMNI HEALTH AND FITNESS OF)	
MOBILE, LLC, a limited liability)	
Company,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 12-00407-CG-B
)	
HOYT STEPHENSON, <u>et. al.</u>,)	
)	
Defendants.)	

ORDER

This matter is before the court on the objections of defendant Hoyt Stephenson (“Stephenson”) (Doc. 71) to the Report and Recommendation of the magistrate judge, in which the magistrate judge recommended that this court deny Stephenson’s motion to realign the parties and grant the plaintiff’s motion to remand the instant case to the Circuit Court of Mobile County (Doc. 67).

The court has reviewed Stephenson’s objection and considered the points raised therein. Stephenson argues that the magistrate judge based her recommendation “largely on speculation about [the parties’] possible positions.” (Doc. 71 at 13). However, in urging this court to reject the magistrate judge’s recommendation, Stephenson himself invites the court to speculate about the competing interests and positions among the parties and essentially make determinations regarding the merits of the underlying case.

See id. Because all doubts about jurisdiction must be resolved in favor of remand, the court finds that remand is appropriate in this case.

Therefore, after due and proper consideration of all portions of this file deemed relevant to the issues raised, and a de novo determination of those portions of the Report and Recommendation to which objection is made, the Report and Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is **ADOPTED** as the opinion of this Court.

It is **ORDERED** that defendant Stephenson's motion to strike (Doc. 26) is **DENIED**, plaintiff's motion to strike (Doc. 59) is **DENIED**, defendant Stephenson's motion to re-align the parties (Doc. 3) is **DENIED**, and plaintiff's motion to remand (Doc. 30) is **GRANTED**. Therefore, this action is hereby **REMANDED** to the Circuit Court of Mobile County, Alabama.

DONE and **ORDERED** this 7th day of November 2012.

/s/ Callie V.S. Granade
UNITED STATES DISTRICT JUDGE